

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOEL CARTER,

Petitioner,

Case Number: 08-CV-10686

v.

HON. VICTORIA A. ROBERTS

LINKER, ET AL.,

Respondent.

_____/

ORDER OF SUMMARY DISMISSAL

Plaintiff Joel Carter has filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff is currently incarcerated at the Standish Maximum Correctional Facility in Standish, Michigan. He is proceeding without prepayment of the filing fee in this action under 28 U.S.C. § 1915(a)(1). After careful consideration, the Court dismisses the complaint pursuant to 28 U.S.C. § 1915(e)(2),¹ because Plaintiff fails to state a claim upon which relief may be granted.

The allegations in Plaintiff's complaint arise from his placement on a food loaf diet. Plaintiff claims that he was forced to eat 19 food loafs in violation of his right to be free from cruel and unusual punishment and his right to due process. Plaintiff also argues that defendants

¹ 28 U.S.C. § 1915(e)(2) provides, in pertinent part:

Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that –

...

(B) the action or appeal –

...

(ii) fails to state a claim upon which relief may be granted . . .

conspired against him to place him on a food loaf diet.

Being placed upon a food loaf diet does not implicate a due process liberty interest. Turnboe v. Gundy, 25 Fed. App'x 292 (6th Cir. 2001). Nor does a diet of food loaf violate the prohibition against cruel and unusual punishment. Cunningham v. Jones, 567 F.2d 653, 656 (6th Cir. 1977). Thus, Plaintiff has failed to establish a due process or Eighth Amendment violation. Because Plaintiff fails to state a violation of his constitutional rights, he also cannot maintain a claim that Defendants conspired to violate those rights.

Accordingly, pursuant to 28 U.S.C. § 1915(e)(2), the Court **ORDERS** Plaintiff's complaint **DISMISSED**.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: March 14, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se petitioner by electronic means or U.S. Mail on March 14, 2008.

s/Carol A. Pinegar
Deputy Clerk